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7 and Solomon Capital, Inc.

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10 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
11 (SAN JOSE DIVISION)

12 STEVE TRACHSEL, et al.,

13 Plaintiffs,

14 vs.

15 RONALD BUCHHOLZ, et al,

16 Defendants.

Case No. C08-02248 RMW

**OBJECTION AND MOTION TO STRIKE  
MICHAEL CIRRITO DECLARATION**

Date: August 8, 2008

Time: 9:00 a.m.

Ctrm: 6

Judge: Hon. Ronald M. Whyte

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19 Defendants Ronald Buchholz, Charice Fischer, RDB Development, LLC, and Solomon  
20 Capital, Inc. object to, and move to strike, the “Declaration of Michael Cirrito in Support of  
21 Plaintiffs’ Reply to Opposition in Support to Application for [Writ of Attachment and ] (sic) Right  
22 To Attach Order” on the following grounds:

23 Mr. Cirrito’s statements are (a) irrelevant to the issues to be decided and (b) unsworn and  
24 incompetent.

25 (a) **RELEVANCE:** The only issue that is important as to Michael Cirrito is whether he  
26 was an “accredited investor” as that term is defined in securities laws. If he was, then he is deemed  
27 as a matter of law to be a purchaser who “by reason of . . . business or financial experience . . .  
28 could be reasonably assumed to have the capacity to protect their own interests in connection with

1 the transaction” under the limited offering exemption of California Corporations Code section  
2 25102(f)(2).

3 This is made clear in Rules 260.102.12 and 260.102.13 of the California Code of  
4 Regulations.<sup>1</sup> Rule 260.102.12 provides that the term “purchasers” used in section 25102(f)(2)  
5 does not include those who are “excluded from the count of purchasers” under Rule 260.102.13.<sup>2</sup>  
6 Accredited investors are among those excluded from that count under Rule 260.102.13.<sup>3</sup>

7 Mr. Cirrito was an accredited investor at the time of the underlying transaction and he does  
8 not claim otherwise. His vague and conclusory statements about lack of prior real estate investment  
9 experience are irrelevant to the issue of whether the transaction was exempted from the California  
10 Corporations Code’s registration requirements under section 25102(f).

11 **(b) UNSWORN:** Mr. Cirrito’s “declaration” is simply signed, but not *under penalty of*  
12 *perjury* as required by law. 28 U.S.C. §1746. The declaration is inadmissible in its entirety.

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14 Dated: July 29, 2008.

PINNACLE LAW GROUP, LLP

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16 By: /s/ William W. Schofield  
17 William W. Schofield  
18 Attorneys for Defendants  
19 Ronald Buchholz, Charice Fischer,  
20 RDB Development, LLC,  
21 and Solomon Capital, Inc.

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26 <sup>1</sup> Calif. Code of Reg., Title 10, Chapter 3, §§260.102.12, 260.102.13.

27 <sup>2</sup> *Id.* at §260.102.12(d)(2).

28 <sup>3</sup> *Id.* at §260.102.13(g).